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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/759,579      | 01/12/2001  | Robert F. Heard      | 91805001            | 1809             |

7590 12/10/2002

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EXAMINER

HORTON, YVONNE MICHELE

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3635

DATE MAILED: 12/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/759,579

Applicant(s)  
HEARD ET AL.

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 3, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12, 13, and 15-20 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1,2,4,5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,850,717 to SCHIEDEGGER et al. SCHIEDEGGER et al. discloses the use of a brickmolding (10') including a rectangular portion (20,100,200) having a bottom surface (BS), a top surface (TS), see the marked-up attachment, a flange portion (26) extending beyond the rectangular portion (20,100,200) in parallel relationship to the bottom surface (BS) and a channel (CH), see also the marked-up attachment, for receiving a siding member (12) therein. Regarding claim 2, the top surface (TS) is and carries the decorative portion. In reference to claims 4,5 and 10, the flange (26) is formed integrally with the brickmolding (10) and has pre-formed openings (50) to receive a fastener, column 6, lines 3-6 such that the flange (26) is affixed to the building adjacent the bottom surface (BS). Claims 1,2,11-13,15,16 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,090,174 to FRAGALE. Regarding claims 1 and 12, FRAGALE discloses the use of a brickmolding (10) affixed to a fenestration (F), column 4, line 25, for receiving a siding (30) wherein the brickmolding (10) includes a rectangular portion formed by (104) having a bottom surface (BS), see the marked-up attachment, a top surface (130), a flange portion (114) extending beyond the rectangular portion formed by (104) in parallel relationship to the bottom surface (BS) and a channel (128) for receiving the siding member (30) therein. Regarding claims 2 and 13, the top surface (130) is and carries the

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decorative wood exterior, column 5, line 14 and column 7, lines 29 and 30. In reference to claims 11 and 19, the brickmolding (10) is comprised of a polyvinyl chloride material, (column 3, line 53 and column 5, line 15), and includes a foam insulating material (104). Regarding claims 15 and 16, the flange (114) is formed integrally with the brickmolding (10) such that the flange (114) is affixed to the building adjacent the bottom surface (BS) by a fastener (column 6, line 51).

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,090,174 to FRAGALE. As disclosed in paragraph 6 above, FRAGALE discloses the basic claimed brickmolding except for explicitly stating that the fastener is received within a hole. Although a hole is not shown or discussed, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the flange of FRAGALE with openings/holes in order to more readily receive fasteners therethrough.

***Allowable Subject Matter***

5. Claims 3 and 6-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 12,13 and 15-19 are allowed.

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7. Claim 20 remains allowed.

8. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 3,12 and 20, the prior art of record fails to teach the use of a rectangular brickmolding having an outwardly extending flange forming a channel; wherein the channel further includes a step portion. Although steps are conventional in the art, it would not have been obvious to one having ordinary to modify neither FRAGALE or SCHIEDEGGER et al. to include a step without destroying the intended function of each device.

In reference to claims 6-9, the prior art of record fails to teach the use of a brickmolding including a barb and kerf fastening means which fastens a bottom flange member to the bottom surface of a rectangular molding.

***Response to Arguments***

9. Applicant's arguments filed 9/3/02 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the j-channel formed therein) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In regards to the applicant's argument that the device of FRAGALE does not have a "substantially solid rectangular portion", the figures clearly shows a rectangular portion (104) that is a "solid rectangular" portion.


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In regards to the applicant's argument that the device of SCHIEDEGGER et al. does not have a "substantially solid rectangular portion", the figures clearly shows a rectangular portion (20,100,200) that is a "solid rectangular" metal member formed from "solid rectangular" portions.

In regards to the applicant's argument that the device of SCHIEDEGGER et al. has a "plurality of cavities between said overlying and hanger members" and not a solid rectangular portion, the examiner is no clear on the applicant's position. The applicant needs to be more specific in his response. The examiner has been able to identify the hanger members (18,72); however, the examiner is not able to identify the overhang members. Thus, the examiner is unable to provide a proper response to this argument at this moment.

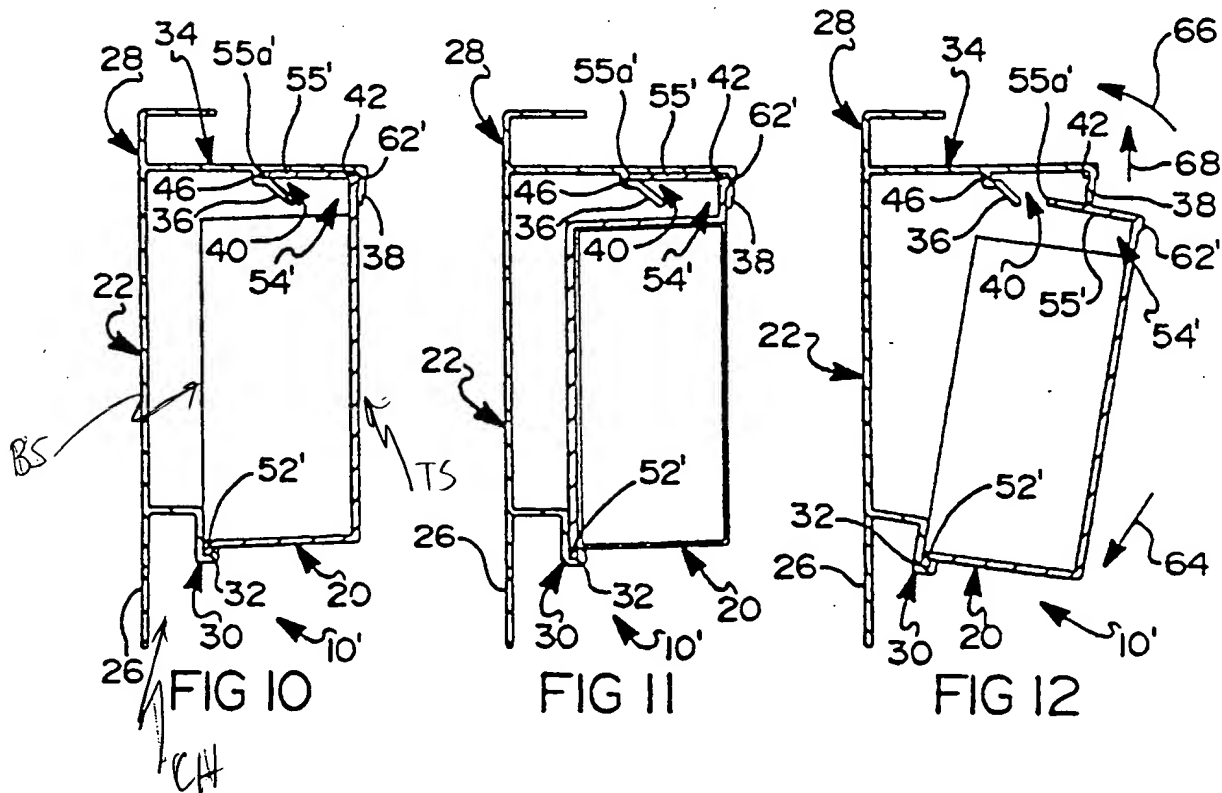
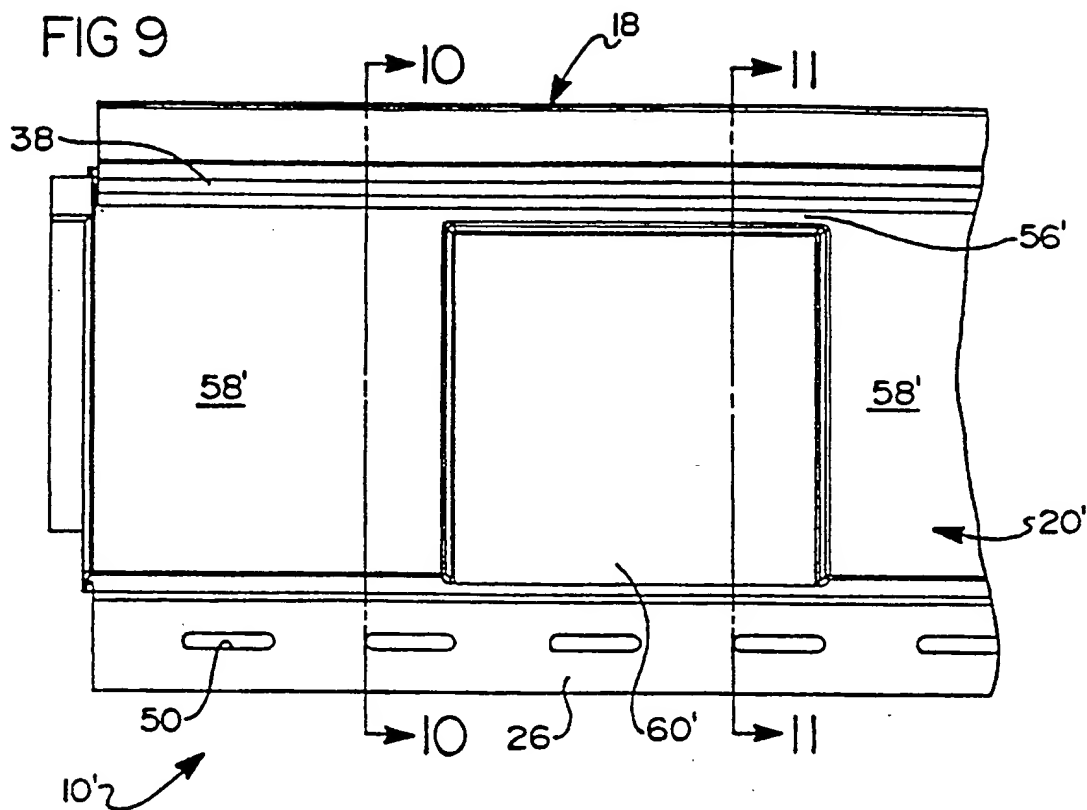
In regards to the applicant's argument that the Applicant's device provides voids similar to that which are taught by SCHIEDEGGER et al., a prior art reference is allowed to have more elements than the number of elements being claimed or identified as long as the prior art reference satisfies the claimed limitations. Both FRAGALE and SCHIEDEGGER et al., as described above clearly satisfies the claimed limitations.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.



Yvonne M. Horton  
Patent Examiner  
Art Unit 3635  
December 9, 2002

FIG 9



# United States Patent [19]

## Fragale

US005090174A  
 [11] Patent Number: 5,090,174  
 [45] Date of Patent: Feb. 25, 1992

[54] SIDING SYSTEM INCLUDING SIDING TRIM  
 PIECES AND METHOD OF SIDING A  
 STRUCTURE USING SAME

4,465,734 8/1984 LaRoche et al. .... 52/309.5  
 4,527,370 7/1985 Schuette ..... 52/282  
 4,575,981 3/1986 Porter ..... 52/530

[76] Inventor: Anthony J. Fragale, 26 4th St.,  
 McMechan, W. Va. 26040

### FOREIGN PATENT DOCUMENTS

920803 3/1963 United Kingdom ..... 52/309.8

[21] Appl. No.: 588,466

[22] Filed: Sep. 26, 1990

[51] Int. Cl.<sup>5</sup> ..... E04F 13/06

[52] U.S. Cl. .... 52/309.9; 52/287;  
 52/288; 52/276; 52/309.8

[58] Field of Search ..... 52/242, 716, 287, 288,  
 52/276, 309.8, 309.9, 612; 156/333, 92; 428/901

[56] References Cited

### U.S. PATENT DOCUMENTS

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| 2,089,005 | 8/1937  | Sherman et al.  | 52/716   |
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| 4,304,083 | 12/1981 | Anderson        | 52/509   |
| 4,319,439 | 3/1982  | Gussow          | 52/288   |
| 4,327,528 | 5/1982  | Fritz           | 52/287   |

### OTHER PUBLICATIONS

Mastic brochure, "T-LOK Vinyl Siding".  
 ALCOA Brochure, "ALCOA Gutters and Down-  
 spouts".

Primary Examiner—James L. Ridgill, Jr.  
 Attorney, Agent, or Firm—Oliff & Berridge

### [57] ABSTRACT

A siding trim piece has a low gauge layer (preferably metal) of preferably about 0.013 gauge, with a substrate material (preferably foam) laminated to the low gauge layer. An edge of the siding trim piece preferably has an integral J channel. The substrate material is fixed to the structure preferably by an adhesive. A method for siding a structure includes the steps of covering the trim, edges and corners in a structure with the siding trim pieces having an integral J channel, and covering the exterior surfaces with siding by inserting ends of the siding into the J channels of the siding trim pieces to abut the siding with the trim, edges and corners of the structure without interposing a separate intermediate seam covering material between the siding, corners, edges and trim. The invention provides a wood-like appearance and avoids the appearance of discontinuities between the siding and trim, edges and corners of the structure.

22 Claims, 5 Drawing Sheets

